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CAN FEDERAL PROGRAMS HELP NEGROES LEAVE THE GHETTO.

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THE DECENTRALIZED ADMINISTRATION OF FEDERALLY FUNDED PROJECTS AT THE LOCAL LEVEL HAS TENDED TO REINFORCE SEGREGATION WHEN THE FEDERAL ASSISTANCE HAS BEEN MISUSED TO FURTHER LOCAL DEVELOPMENT POLICIES. HOWEVER THE NATIONAL COMMITMENT TO EQUAL OPPORTUNITIES AND ANTIPOVERTY EFFORTS REQUIRES THAT THERE BE A REASSESSMENT OF THE USE OF FEDERAL FUNDS TO ASSURE THAT THEY ARE BEING USED FOR NONDISCRIMINATORY PURPOSES. FEDERAL URBAN AID PROGRAMS COULD HELP TO OPEN THE SUBURBS TO NEGROES AND LOW-INCOME FAMILIES BY OFFERING LARGER EDUCATIONAL GRANTS AND HIGHER FUNDING PRIORITIES TO COMMUNITIES WITH LOW-INCOME NEGRO FAMILIES. ALL THE VARIOUS FEDERALLY FUNDED PROGRAMS FOR METROPOLITAN AREA HOUSING AND COMMUNITY DEVELOPMENT COULD MAKE ALLOCATIONS CONTINGENT ON LOCAL COMMITMENTS TO DESEGREGATION. THERE ALSO SHOULD BE A UNIFICATION OF GUIDELINES AND REGULATIONS TO INSURE THAT ALL FEDERALLY ASSISTED PROGRAMS INCLUDE NONDISCRIMINATORY POLICIES AND EQUAL OPPORTUNITY GOALS. A FEDERAL FAIR HOUSING LAW SHOULD BE ENACTED WHICH WOULD EQUALIZE ACCESS TO HOUSING AND WOULD STRENGTHEN ENFORCEMENT OF EXISTING LOCAL LAWS. FEDERAL LOW-INCOME HOUSING PROGRAMS SHOULD BE ENLARGED TO INCLUDE SUBSIDIES FOR SUBURBAN HOUSING AND FOR RELOCATION OF FAMILIES DISPLACED BY URBAN RENEWAL. THERE SHOULD BE A MECHANISM FOR NEGOTIATION BETWEEN CENTRAL CITIES AND SUBURBS TO RESOLVE ANY CONFLICTS OF INTEREST. THESE PROPOSALS DO NOT REQUIRE ANY RADICAL CHANGE IN FEDERAL PROGRAMS NOR A TAKEOVER OF LOCAL AUTHORITY. MANY OF THESE STEPS COULD BE IMPLEMENTED BY EXECUTIVE AND ADMINISTRATIVE DECISIONS. THIS PAPER WAS PREPARED FOR THE NATIONAL CONFERENCE ON EQUAL EDUCATIONAL OPPORTUNITY IN AMERICA'S CITIES, SPONSORED BY THE U.S. COMMISSION ON CIVIL RIGHTS, WASHINGTON, D.C., NOVEMBER 16-18, 1967. (NH)

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The federal government is heavily involved in shaping the character of America's urban areas. Through grants-in-aid, loans, mortgage insurance, and direct construction of public buildings and facilities, federal agencies influence the basic physical pattern of metropolitan areas and the quality of public services available to their citizens. The highway network, mass transit, hospitals, water and sewer facilities, housing built with FHA mortgage assistance, low-income public housing, and urban renewal projects - all financed with federal aid - together have significant impact on where people of different incomes live and work, who their neighbors are, and with whom their children go to school. Further, the flow of federal aid to individual communities for education, health services, welfare, and antipoverty programs affects the nature and level of services available to different population groups in the metropolitan area.

Total federal spending for urban development and public services is substantial and continues to mount: according to estimates of the Department of Housing and Urban Development, federal programs in urban areas involved total obligations or commitments of some 28.4 billion dollars in 1966, equal to 4 percent of gross national product.[1] Thus the federal government shares responsibility with the states and local communities for the way we are building and servicing our metropolitan areas.

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The cities and suburbs that are emerging are a source of deep concern to those who believe in equality of opportunity. We are building into our urban areas a high degree of racial and economic segregation and widespread disparities in the provision of public services. The problems of school desegregation with which the Civil Rights Commission is concerned are symptomatic of an urban pattern that severely limits opportunities and choices for low-income groups

in general and Negroes in particular. Low-cost housing is concentrated mainly in the central cities and a handful of older suburban towns in most large urban areas. Opportunities for low-income families to live elsewhere are restricted by the nature of the housing market. New housing built today in the suburbs is priced primarily for families with annual incomes of $8,000 and above; the current median sales price of new single-family houses is $20,000, with few available below $17,000. Similar housing built a few years ago is still priced beyond the means of low-income groups. Little subsidized housing is being built in the suburbs. Further, discriminatory practices in selling and financing suburban housing exclude even many Negroes who can afford to live there.

As a result, the suburbs are attracting white middle- and upper-income families with children; while the core cities are becoming the domain of the elderly, broken families, low-income groups, and Negroes. This picture is not true in all metropolitan areas, but it does apply generally to large metropolitan areas in all parts of the country and to those of all sizes in the Northeast.[2] Communities where the poor are concentrated are faced with great demands for public service - for welfare, health, public safety, and education - while their tax resources are limited by the low income of their population. Thus the segregated pattern of metropolitan areas leads to a separation of needs from resources, with the central cities increasingly unable to provide adequate services for their people. School programs are particularly affected: most big-city school systems spend less per pupil than the schools of their surrounding suburbs, and often substantially less.[3]

These trends spell out clear implications for school desegregation. In the large metropolitan areas, prospects are dim for desegregation within the central cities alone. Negro population is concentrated in these cities, and the age

composition and family size of this population means that many core cities are heading for predominantly Negro enrollments in the public schools. In 1965, 9 major cities already had Negro majorities in their elementary schools: Atlanta, Baltimore, Chicago, Cleveland, Detroit, Newark, Philadelphia, St. Louis, and Washington. Current population estimates indicate that Negro population is becoming increasingly concentrated in the central cities, while white population continues to decline.[4] Over time, there will be fewer and fewer white students to take part in central-city desegregation plans; predominantly Negro schools will be unavoidable unless desegregation is approached on a metropolitan basis.

This paper will therefore focus on possibilities for metropolitan desegregation, and in a broader context than that of schools alone. School segregation is deeply embedded in other metropolitan characteristics: limited housing opportunities for Negroes and the poor, government policies that limit these opportunities, and the financing of education and other public services.

Major emphasis will be on the current and potential role of the federal government in providing opportunities for desegregation in housing and schools. Several strategies for federal action will be explored, including measures to equalize tax resources, specific requirements for meeting the needs of minority groups in urban aid programs, more effective enforcement of civil rights and fair housing laws, programs to subsidize housing in the suburbs, and federal encouragement of central-city-suburban cooperation.

The Federal Interest

The federal government today is helping underwrite a form of metropolitan development that segregates Negroes and other minority groups and denies them equal opportunities in education, housing, and public services. The title of a recent publication of the National Committee Against Discrimination in Housing

states this charge forcefully: "How the Federal Government Builds Ghettos." This situation, however, has come about more through federal failure to direct its programs toward positive goals of equal opportunity than through deliberate attempts to use urban aid programs for promoting patterns of segregation. The administration of federally aided programs is largely decentralized to the local level; thus federal assistance is used in ways that reinforce local community development policies. In the suburbs, these policies are often aimed at excluding Negroes and low-income people while using federal aid to benefit white middle-income residents. It is inaccurate to charge that federal programs themselves help maintain forced segregation. But communities whose policies contribute to forced segregation are nevertheless using federal aid to build facilities for their own residents, and by keeping Negroes and low-income people out of the community they are denying them access to these facilities. A possible and exceptional instance in which federally-aided activities do help exclude unwanted people is the use of local planning grants to prepare zoning ordinances, building codes, and subdivision controls that rule out the construction of moderate-cost housing.

Within the central cities and their ghettos, federal and local policies have taken a somewhat different turn recently. Many programs are being mounted to deal with the problems of ghetto residents. With few exceptions, these programs try to improve conditions inside the ghetto without creating new opportunities for some of the ghetto residents to move elsewhere. A strong case can be made for such programs, since it is clear that even the most vigorous policies to desegregate the ghettos would leave large numbers of people living there for years to come. But programs to improve the ghetto cannot in themselves resolve the problems of people who live there.

Ghetto improvement without desegregation - important as it is in the short

run - will fail in the long run for several reasons. First, the rapid growth of urban Negro population means that the ghetto cannot be contained within its present boundaries and still provide decent living conditions. Between 1950 and 1960, nonwhite population in metropolitan areas grew from 9 million to 13.2 million, with 82 percent of this increase in the central cities. According to current Census Bureau estimates, the nonwhite population in metropolitan areas grew by an additional 2.8 million between 1960 and 1966, this time with 87 percent of the increment in the central cities.[5] (During the same period, Census estimates are that central cities accounted for 95 percent of the increase in nonwhite children under 14 - a fact of obvious significance for school programs.) Accommodating population growth of this magnitude in present ghettos would mean r e b u i l d i n g t h e m on a vast scale beyond any now contemplated, with a need for high-density housing projects and new public facilities to serve ever-increasing numbers of people. Realistically, providing adequate space, decent housing, and needed services for ghetto residents will be virtually impossible unless many of them have opportunities to live elsewhere.

Further, programs to improve the ghetto are not likely to succeed in providing enough jobs for ghetto residents. Efforts to attract firms into the ghetto may yield some token results, but the basic job market is metropolitan-wide. Negroes in the ghetto are cut off from the main centers of growth in industrial jobs, which are in the suburbs. Not only is transportation to these jobs difficult, but the usual informal channels of communication through which blue-collar workers find jobs are not operating. Ghetto residents simply do not hear about jobs in the distant suburbs. While remedial measures are possible, focusing on improvements in job information and in public transportation, the most effective long-run solution is to create more opportunities for Negroes to live near suburban jobs.

Because of the connection between population income and local government tax revenue, measures that imply maintaining Negro ghettos and concentrations of low-income people in the central cities do not offer a sufficient base for providing the extensive public services that are needed. Again, remedial action is possible through federal and state grants to the central cities, but these, too, would have to be on a massive scale to provide for adequate service.

Finally, experience to date with remedial school programs in segregated schools casts doubt on the educational effectiveness of this approach.[6] Although it is possible that new types of programs - or more costly ones - will be more effective than those of the recent past, the case for segregated remedial programs remains to be established. Meanwhile, the Coleman report and subsequent analysis of its data by the Civil Rights Commission does indicate one promising approach to improving educational opportunities for disadvantaged children: integrated education. A strategy of ghetto improvement unaccompanied by desegregation runs a high risk of failure in education as well as in housing, jobs, and public services.

The case for reconsidering federal programs that reinforce present patterns of metropolitan development is basically that these patterns obstruct progress toward a series of important and interlocking national goals. Through legislation and executive orders of the past five years, the nation has undertaken commitments to provide equal opportunity in education and housing and to eliminate poverty. That these goals are closely related to one another, and that they are also linked to the way we build urban areas, has sometimes been noted explicitly in statements of national goals. President Kennedy's Executive Order on Equal Opportunity in Housing acknowledged that discriminatory practices not only denied many people the benefits of federally financed housing, but that

> such discriminatory policies and practices result in segregated patterns of housing and necessarily produce other forms of dis-

> crimination and segregation which deprive many Americans of equal opportunity in the exercise of their inalienable rights to life, liberty, and the pursuit of happiness....[7]

President Johnson, in his 1965 message, "Problems and Future of the Central City and Its Suburbs," stated as a basic goal of federal urban policy:

> We must extend the range of choices available to all our people so that all, and not just the fortunate, can have access to decent homes and schools, to recreation, and to culture.[8]

A year later, the President's message proposing the model cities program and related legislation spoke once again of the goal of "Giving to both urban and suburban families the freedom to choose where they will live."[9]

Federal aid in support of policies that stress suburban exclusion and ghetto improvement without desegregation is incompatible with these objectives. If federal urban programs are seen not as independent actions but as important contributors to the structure and organization of metropolitan areas, their impact even conflicts with the spirit of Title VI of the Civil Rights Act of 1964:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (Section 601.)

The urban programs and activities receiving federal assistance can be construed as individual programs to build highways and utility systems, insure housing, and improve services to ghetto areas. More broadly, however, the activity receiving federal aid under a great number of separate programs is actually the building and servicing of metropolitan areas. In this activity of community development, it is clear that many people are denied benefits and subjected to discrimination because of race.

Financial Incentives for Desegregation

Federal urban aid programs could make important contributions toward opening up the suburbs to Negroes and low-income families by undercutting financial incentives that now promote suburban exclusion. Local suburban development policies are shaped in large part by tax considerations. Communities where the poor live pay financial penalties, under our present system of financing local government. This system relies heavily on locally raised property taxes to pay the cost of local government. As of 1962, 70 percent of local government revenue came from local sources - 48 percent from the property tax alone - while 28 percent came from the state government and only 2 percent from federal grants.[10] This dependence on local tax revenues means that a community's ability to provide public services depends to a great extent on the wealth of its residents. In the cost calculations of local government, poor residents bring deficits: they require more in local service costs than they will contribute in local taxes.

As a result, suburbs struggling with the costs of new schools, new utility systems, and expanding services for a growing population have strong financial incentives to exclude low-income residents. They also have policy tools that can serve this end. Land and building development controls can require excessive minimum lot sizes, expensive types of construction, and elaborate street and utility installations in new subdivisions - all of which raise the cost of new housing and help price out families with limited incomes. Further, they can choose not to participate in programs for building subsidized low-income housing. These practices are widespread, and they are prompted at least in part by tax motives, as well as by status concerns and race prejudice.

One way of opening the suburbs to larger numbers of Negroes and low-income families is to remove the tax incentives that promote exclusionary policies.

More substantial amounts of federal and state aid to local government would ease the present reliance on local property taxes and thus weaken these incentives. Education costs are particularly critical: for the country at large they amounted to 45 percent of local government expenditure in 1962. In many growing suburbs, education costs and capital charges for new schools together account for more than half the total budget. Thus the pressure to hold down property taxes often focuses particularly on keeping out additional families with children of school age who would buy moderate-cost houses. Although state aid for education accounts for a large share of local education costs - 37 percent in 1962[11] - there are wide variations from one state to another. And federal contributions are negligible, constituting less than 8 percent of total education expenditures in 1965-66.[12] Further, very few federal programs allocate aid or set matching grant requirements on the basis of local fiscal ability. Most federal aid to local government flows through the states; and as of 1962, less than 20 percent of federal aid took account of variations in state fiscal capacity.[13]

The present system of financing local government rewards communities that manage to exclude the poor. To encourage local action in support of desegregation, this system should be overhauled to reward communities that admit the poor. Federal programs can work toward this end in several ways. Title I of the Elementary and Secondary Education Act of 1965 authorizes larger grants to communities where there are more school-age children whose families have low incomes or receive payments under the aid for families of dependent children program. Other programs could similarly vary the amount of federal grants according to a formula that takes into account the proportion of low-income families in the community or other measures of local fiscal capacity. In programs where the total grant amount logically depends upon particular project proposals, the local matching share could be reduced for communities where low-income people

live; or such communities could be given priority over other applicants for limited funds. (Some urban programs do consider such factors in setting priorities administratively, but legislative authority for this approach would be desirable.) These kinds of rewards to communities that accept poor families should be incorporated explicitly in the major urban aid programs, such as Title III grants for supplementary education centers, health facilities and services grants, urban renewal, low-income housing, urban mass transportation grants, and grants for water and sewer facilities.

Federal Program Requirements

In addition to using federal-aid programs to relax local tax pressures, the federal government could require communities using certain programs to make specific provision for desegregation of low-income and minority groups in their plans. A few federal programs have such requirements, but these are mainly programs used in the central cities. A recent requirement for communities building low-rent public housing, for example, calls for desegregation policies in site selection:

> Any proposal to locate housing only in areas of racial concentration will be prima facie unacceptable and will be returned to the local authority for further consideration and submission of either (1) alternative or additional sites in other areas so as to provide more balanced distribution of the proposed housing or (2) a clear showing, factually substantiated, that no acceptable sites are available outside the areas of racial concentration.[14]

Another example of this approach occurs in the requirements for the Workable Program for Community Improvement, which is a prerequisite for urban renewal grants and certain other aids administered by the Department of Housing and Urban Development. One provision in the Workable Program calls for

the establishment of mechanisms for citizen participation in planning, including "a subcommittee of the advisory committee or a special committee on minority group housing, with membership to include representative members of the principal minority groups in the community."[15] Guidelines for the Workable Program state further:

> One of the most universally critical housing needs in communities over the country is the provision of adequate housing open to minority groups. This complex matter must have special attention if real progress is to be made in providing the needed housing. For this reason, it is generally expected that there will be established a committee, or subcommittee, to work for full opportunity in housing for all groups. The important consideration is for each community to develop a plan of action that will best carry out its responsibility to work for full opportunity in housing for all groups in their locality.[16]

More than 1,000 local communities now have active workable programs acceptable to the Department of Housing and Urban Development. These programs, however, apply to single localities rather than metropolitan areas. Further, they are seldom prepared by segregated suburbs, since they are not required for participation in FHA or other suburban-oriented housing programs.

An unusual desegregation requirement on a metropolitan basis has recently been added to the Community Renewal Program. This is a program that supplies federal aid for the advance planning of renewal projects and other activities to improve housing and environmental conditions. The CRP is also a single-community program, but new requirements call for the community receiving aid to work with metropolitan planning agencies or councils of government for areawide solutions to minority housing problems. Since 1963, localities preparing CRP's have been responsible for including an affirmative program to meet minority housing needs and to eliminate discriminatory barriers

obstructing open access to housing within their own jurisdiction. The new requirements call for more specific scheduling of this program and for the following additional action:

> To the extent possible, where the applicant is within an urbanized or metropolitan area, the "Affirmative Program" should include measures to enlist the aid of neighboring and nearby communities and urbanized areas in taking measures to insure equal opportunity in housing and in assuming the responsibility of providing low-and-moderate income housing units.
>
> Where metropolitan planning agencies or Councils of Governments (COG's) exist, the CRP applicant should utilize all possible means and measures to seek these agencies' assistance in dealing not only with traditional physical planning elements (e.g. land use, zoning, transportation, and capital programming) but also in effectively treating on a metropolitan regional basis equally important planning and development matters in the area of income and racial stratification between central core cities and surrounding suburban regions. Steps possible ... include: multilateral negotiations within COG's and metropolitan planning bodies; efforts to include low-income and open-housing elements in metropolitan plans; and, where the board or council governing these metropolitan agencies does not adequately represent the concerns of the CRP applicant for equal housing opportunity and the provision of low-income housing, appropriate steps should be considered by the locality to seek revision of the basic organization and representational structure of the metropolitan body.[17]

These requirements appear to offer valuable precedents that could be applied to programs operating in the suburbs or programs operating on a metropolitan-wide basis, including those of other agencies as well as the Department of Housing and Urban Development. How effective they have been in practice is uncertain, however. There has been sufficient experience with the Workable Program requirement dealing with minority housing and with the 1963

CRP requirement for an affirmative minority housing program so that a careful evaluation of the results should now be undertaken. Case studies in the field could help determine the extent to which these federal requirements have been met and have actually influenced local decisions and the use of subsequent federal grants.

Although an evaluation study may suggest ways of strengthening these requirements or improving their administration, a first step can be taken to bring other programs in line with the basic policies that have already been set forth. In particular, specific provisions dealing with minority group needs should be added to federal requirements in connection with aid for metropolitan planning (including metropolitan transportation planning), urban mass transportation, water and sewer facilities, open space, health facilities, supplementary education centers and services, and special grants to assist in planned metropolitan development. These requirements might work in two separate directions. First, program requirements could help assure that the activity receiving aid gives sufficient attention to the needs of low-income and minority groups in the community. Thus a locality applying for mass transportation or health facilities aid would have to show that it is meeting the transportation or health needs of its low-income citizens through its specific project proposal or through other services to be made available. Requirements applying to the specific activity for which aid is sought would help assure adequate services for the poor, but they would not contribute directly to desegregation of housing or schools.

A second approach, more relevant to desegregation, would emphasize participation in areawide plans to expand housing opportunities for minority groups. Most major federal-aid programs for community development already incorporate certain areawide planning requirements. Water and sewer, mass transportation, and open space grants administered by the Department of Housing

and Urban Development all have similar provisions to the effect that each aided project must be consistent with areawide plans for the specific function that is to be assisted, and that these functional plans in turn are to be part of l o n g-range, areawide comprehensive planning. In a typical program guide, comprehensive planning is defined as follows:

> Comprehensive areawide planning is a systematic and continuing process designed to help solve current problems and provide for future needs. It includes the identification and continuous refinement of objectives and criteria; collection and analysis of pertinent data; consideration of alternative courses of action; coordination of local plans and of programs and activities affecting the development of the area; formulation, maintenance and updating of a comprehensive development plan; and improvement programming and other measures to implement the plan. Comprehensive planning covers land use, transportation, water and sewers, open space and recreation, housing, health and education facilities, community development and renewal, and other aspects of physical, economic and social development of significance to the particular urban area.[18]

Housing and schools are specifically included in this definition, but the planning guide says nothing about equal opportunity or desegregation as a necessary or desirable goal of such planning. The question of goals is left to local decisions: "comprehensive planning is conceived and carried out to attain urban area goals and objectives under the policy direction of local elected officials."[19]

The federal position with respect to these grant programs is clearly at variance with the new Community Renewal Program regulations cited earlier. Communities receiving federal aid for CRP's are required to press for areawide planning action to meet the housing needs of minority groups, but communities

receiving other aids are under no such obligation. In the case of the CRP, communities are expected to comply with national goals of equal opportunity in housing. In the other programs, HUD encourages localities to set their own goals. Thus areawide planning councils can expect to face requests for action on minority housing coming from central cities working on CRP's, but other member communities will be under no pressure from HUD to respond. In fact, suburban communities can continue to receive their federal aid for other programs while ignoring HUD-prompted requests from CRP participants. Further, much of the planning undertaken by areawide councils is itself funded under HUD planning grants: these grants do not require attention to minority housing needs and thus fail to reinforce the message given in the Community Renewal Program.

Federal programs could strengthen opportunities for desegregation by redefining comprehensive planning requirements to include an affirmative program to give minority groups equal access to housing, education, and other public services. Communities receiving federal grants and the specific federal-aid projects themselves should be expected to contribute to this program. Thus water and sewer projects should be part of a utility system that serves new low-income housing; and mass transportation grants should support systems that provide needed service for minority groups, such as lines to suburban areas of low-income housing or lines linking ghettos to outlying job centers. A number of grants under these programs do in fact serve such needs; but there is nothing in the program requirements to encourage communities to plan with these purposes in mind.

Grants for supplementary education centers and services (Title III) and for hospital and medical facilities also involve certain areawide considerations which could be expanded. The manual for educational project applicants under Title III notes that this program is particularly concerned with planning for metropolitan areas, and that all projects must be considered in reference to

"the geographic distribution of the population within the State; the relative need of persons in different geographic areas and in different population groups within the State; the financial ability of communities or areas to provide the proposed services and activities; the relative ability of the local educational agencies within the State to provide those services and activities."[20] Grants for medical facilities are reviewed in the light of statewide and in some cases metropolitan area health plans, which also take into account the distribution of population and health needs. These considerations are not as broad as the comprehensive planning requirements of HUD programs, but they do raise issues of the distribution of disadvantaged population groups and of relative fiscal capacity of communities, which in turn reflects the proportion of low-income people living there.

The federal government could give stronger support to metropolitan desegregation by extending these considerations to reward communities that take action to admit low-income groups or to include them in proposed programs. Program requirements could be restated to indicate that priority will be given to communities which provide housing or public services for disadvantaged groups, either in the activity for which federal aid is sought or in other community development activities. This requirement could be met in a number of ways, including building low-income housing, taking part in metropolitan school exchanges of disadvantaged children, or providing facilities which serve significant numbers of low-income people including those outside the community as well as those within it. The U. S. Conference of Mayors has recently urged a similar federal policy to open the suburbs to low-income housing. A resolution adopted at the mayors' 1966 conference calls on Congress to make all federal grants for water and sewer systems, open space, and other community facilities contingent upon a local agreement to provide a "reasonable share" of the low- and middle-income housing in the area.[21]

These proposals would operate through federal requirements attached to specific aid programs. Other federal measures to encourage metropolitan-wide cooperation in support of desegregation will be considered in the last section of this paper, dealing with incentives for joint use of federal programs by several communities and with arrangements for metropolitan planning and coordination.

Fair Housing Laws

Much of the above discussion has centered on federal incentives to make low-income housing available on a metropolitan basis, and thus to offer improved opportunities for residential and school desegregation. Although present patterns of segregation are related very closely to the economic inability of most Negro families to afford the cost of suburban housing, another significant problem is discrimination that prevents Negroes from buying or renting suburban housing that they can afford. If income and housing cost were the sole causes of racial segregation, Negroes would be much more widely dispersed throughout metropolitan areas than they are today.

Thus another important approach to desegregation is to give minority groups equal access to housing available at market prices. Various measures have been taken to prevent discrimination in the sale or rental of housing, but both the legal framework and enforcement procedures are far from adequate. Twenty-one states now have some form of open-occupancy law, but these vary widely in their coverage. Some apply only to publicly aided housing; several exempt owner-occupied single-family houses and rental units in small structures. The absence of a federal fair housing law is a serious gap in this legal framework. President Kennedy's Executive Order, "Equal Opportunity in Housing," applies only to housing built with federal aid or financed with the aid of federal mortgage insurance: this housing currently amounts to less than 20

percent of new housing starts.

Although the subject of state action is beyond the scope of this paper, it is worth noting that most state enforcement procedures rely primarily on individual complaints as a basis for action and fail to make a systematic attack on patterns of discrimination practiced by real estate brokers and mortgage lending institutions.[22] The federal government has begun to institute joint procedures with the states to apply state fair housing laws to federal programs, but primary responsibility for enforcement of these laws rests with the states themselves.

Further federal action to assure equal opportunity in housing should involve both wider coverage of the market and more effective enforcement even for the portion now covered by the Executive Order. For the time being, a national fair housing law has been blocked by Congressional opposition to the administration's proposed Title IV of the 1967 Civil Rights Bill. Broader coverage may be possible, however, through more effective use of the Executive Order. First, it may be possible to extend the Order beyond FHA and VA assisted housing to cover housing that is conventionally financed by federally supervised lenders. If it is determined that sufficient legal authority exists to accomplish this extension, it should be done. Secondly, the Order has been limited by regulation so as not to apply to one- and two-family owner-occupied homes. This means that once the FHA-aided builder sells a house, the owner-occupant is free to discriminate on resale. This exemption should be removed. Thirdly, no effective action has been taken to assure equal access to housing provided through pre-Executive Order FHA assistance. This affects a particularly strategic part of the housing stock: from 1935 through 1961, FHA insured 5½ million housing units, many of which will be coming on the market at prices or rents well within the reach of large numbers of Negro families. Although many of the early mortgages have now been amortized or the FHA insurance terminated, about half the FHA insurance ever written still remains in force. For example, there are more than 300,000 pre-Order FHA multi-family units still receiving FHA assistance. The housing covered by this insurance could offer unparalleled opportunities for Negroes to improve their living conditions and to choose new places to live. Requirements should be imposed to assure equal access to this housing.

Some older FHA-insured housing has come under the provisions of the Executive Order: houses repossessed by FHA for subsequent resale. This housing is

typically sold through real estate brokers who give assurances that they will show them on a nondiscriminatory basis. Fair housing groups in Philadelphia and Kansas City have recently investigated the sales procedures of these brokers, and found discrimination against Negroes in the resale of these properties for FHA.[23]

In the case of newly built housing aided by FHA, implementation of the Executive Order depends mainly upon individual complaints. Complaint procedures put the burden of responsibility on the family that wants a home; this method provides only spotty efforts to secure compliance, since the victim of discrimination often lacks the evidence, time, or disposition to become involved in pressing his case with FHA. The federal government should assign sufficient staff to test the sales policies of developers and brokers who receive FHA aid and should launch its own investigations without waiting for complaints. The National Committee Against Discrimination in Housing has suggested further that builders of FHA-insured housing should be required to file regular and detailed reports of occupancy by race; and that FHA should let Negroes know about available housing by, for example, requiring FHA-insured builders to mention federal fair housing regulations in their advertising.[24]

Thus federal action in support of desegregation should not be limited to strategies focusing on the price of housing; discrimination rather than price is often the problem, and the federal role has so far been very limited in equalizing access to the metropolitan housing market.

Low-Income Housing for the Suburbs

Current federal low-income housing programs will contribute little to metropolitan desegregation. They produce only a small amount of new housing, and they are used mainly in the core cities.

Taken together, federal low-income housing, moderate-income projects (under section 221(d)(3)), and housing for the elderly are now producing about 50,000 new units a year. The rent supplement program will reduce rents for low-income families living in new moderate-income developments, most of which are included in the above total. Through January, 1967, contracts had been allocated for 18,000 families to receive rent supplements. These volumes of housing are small in comparison with total national housing starts of about 1.5 million per year and with the 4 million urban families estimated to be living in substandard housing in the mid-1960's.

The major housing subsidy programs - low- and moderate-income housing and rent supplements - all require some form of local government approval, which has been forthcoming mainly in the central cities and in other communities where there are already substantial numbers of low-income residents. Low-income public housing must be sponsored by a public housing authority established by the local government. Congress has stipulated that 221(d)(3) housing and rent supplements can be used only in communities that have prepared a "workable program" - a series of local ordinances, plans, and administrative arrangements that are otherwise required for urban renewal grants and certain additional federal aids. Suburbs that have no need of urban renewal are unlikely to have prepared a workable program, and of course can prevent private groups from developing moderate-income and rent supplement housing simply by not preparing one.

To make these housing aids applicable to suburban use, a first step would be to remove the workable program requirement. Then the initiative would rest with private or non-profit developers who could apply to FHA directly for 221(d)(3) mortgage aid and for rent supplements without securing local government approval, as is the case with other FHA programs. To make this housing more welcome in the suburbs, the federal government might authorize additional public service grants so that new low-income families would not add

to local tax burdens. Precedents exist in the education grants that the federal government now makes to assist local governments in "impacted areas" where military or other federal personnel add substantially to local government costs.

Another approach would involve authorizing the use of rent supplements in existing housing rather than limiting their use to new projects built under FHA mortgage programs. If rent supplements were available to low-income families for use anywhere in the metropolitan area, these families could choose housing wherever vacancies are available in a moderate price range. This approach would have to be used with care, however, for if the vacancy reserve is very small the net result could be to inflate housing costs without adding to the supply.

Another promising direction would be to make greater use of suburban housing in managing the relocation of people displaced by public action in the central cities. A large number of families are displaced every year by urban renewal, highway construction, and housing code enforcement in urban areas: by the late 1960's, it is estimated that the number will approach 100,000 families a year. Relocation procedures vary from one program to another, but HUD-aided programs have now come under a single set of regulations and the federal government has been moving gradually toward standardization of other programs as well. Negroes constitute a very high proportion of all displaced families - the majority in the case of urban renewal. Thus relocation does offer significant opportunities for desegregation. Current HUD regulations require local relocation agencies to list only open-occupancy housing and to work only with brokers who will deal with all displacees on a nondiscriminatory basis.

Nevertheless, most relocation staffs search for housing only within their own community rather than in the metropolitan area at large. Obvious political difficulties forestall one-sided action by a central city to rehouse its

displacees in a neighboring suburb, even if suitable vacancies could be found there. Federal policy could encourage metropolitan relocation, however, by means of financial incentives for the receiving community. These might take the form of the public service payments suggested above; or cooperation in relocation planning might earn a community high priority for its own federal aid with community development projects, as suggested earlier in this paper. HUD relocation procedures now permit certain relocation aids to be given outside the displacing community. In particular, a one-year relocation adjustment payment to help people afford higher rent in their new housing - a limited rent supplement, in effect - is authorized when a family moves outside the locality as well as within it. But there are no federal incentives to encourage metropolitan cooperation on relocation.

Metropolitan Cooperation

A federal stance of allowing joint local action but not encouraging it is typical of urban aid programs. The Elementary and Secondary Education Act of 1965 permits two or more local educational agencies to carry out programs jointly under Titles I and III; HEW grants for hospital and medical facilities and most HUD grant programs allow considerable flexibility for participation by more than a single community. Many of these programs do, however, encourage or require metropolitan planning as a background for local projects, as noted earlier.

To facilitate desegregation, however, central city-suburban cooperation in actual program operation would be highly desirable. In most large urban areas, Negro concentration in central cities limits opportunities for desegregation within the cities alone. Cooperation on programs of housing and education could be one significant way out of the restrictions imposed by demography and local boundaries. Extra incentive grants for joint central city-suburban sponsorship of education, housing, and renewal programs could conceivably interest the

suburbs in shared activities.

This proposal is especially relevant to two of the newest urban programs, model cities and grants for planned metropolitan development, both authorized in the Demonstration Cities and Metropolitan Development Act of 1966. The history of this legislation, however, illustrates well the obstacles to stronger federal action in support of desegregation at this time. The original administration proposal for this bill contained an explicit provision for desegregation in the model cities program. It would have required the Secretary of HUD, in determining the eligibility of proposed city programs, to "give maximum consideration to whether ... the program will encourage good community relations and counteract the segregation of housing by race or income." Congress deleted this requirement from the final bill, although it did retain a related provision that each program "will contribute to ... maximum opportunities in the choice of housing accommodations for all citizens of all income levels." In addition, Congress amended the administration bill to prevent the Secretary from requiring transfers of students between schools in the model cities neighborhood and schools in the rest of the city as a condition of aid. A similar amendment to Title II, dealing with special grants for planned metropolitan development, forbids the Secretary from requiring communities to participate in school plans to eliminate racial imbalance in the metropolitan area as a condition of aid.

The intent of these amendments seems clear: to tie the hands of the federal program administrators and to serve notice of Congressional opposition to any effort to use these programs to encourage metropolitan desegregation. In the model cities program, limited desegregation may be possible if central cities take advantage of the policy that permits the areas covered by the program to be discontinuous. By choosing a main area within an existing ghetto and a subsidiary area for new low-cost housing in another part of the city, a

community could offer some opportunities for wider residential choice. Possibilities for desegregation would be much improved if a central city and one or more suburbs were to join together in a model city program. Although the legislation permits joint sponsorship, the proposals submitted to HUD in the first year of operation have all been for single-city projects.

The new program of grants for planned metropolitan development, authorized in 1966 but not yet funded, is an example of the use of financial incentives to strengthen metropolitan cooperation. It offers extra federal contributions to reduce the usual local share of federal-aid projects for building hospitals, libraries, airports, water and sewer facilities, highways, mass transit lines, and other public works in communities that participate in effective metropolitan development programs. The metropolitan area in which the project is located must have comprehensive planning under way with adequate institutional arrangements for coordinating local activities on the basis of this planning, and the individual locality must conform to the plan in its own land use regulations, public facilities, and other development policies.

This legislation does offer a realistic way to strengthen metropolitan cooperation beyond the areawide planning called for in individual program requirements. Even with adequate funding, however, its impact on housing and school desegregation will probably be slight. Although it requires substantial metropolitan coordination of development policies, nothing in the law or in other HUD statements on metropolitan planning directs attention to areawide low-income housing or opportunities for desegregation as a goal of such planning. The emphasis in this bill is more on advance planning of public works than on areawide solutions to social problems. Further, Congress specifically prevents the Secretary of HUD from requiring attention to racial imbalance in the schools as a component of required metropolitan planning. Where metropolitan planning councils do choose to draw up areawide programs for low-income housing, however,

the law provides a way of rewarding local compliance: communities receiving the special grants must demonstrate that their zoning and other development controls are in accord with metropolitan plans.

A number of legislative changes would be needed before this program could contribute directly to school desegregation: the present restriction against programs to improve racial balance would have to be removed, and metropolitan planning would have to be defined to include measures to provide equal opportunity in housing on a metropolitan basis. Local applicants could then demonstrate their active participation in metropolitan planning by such means as sponsoring low-income housing, joining central city-suburban school programs, or cooperating with other communities in relocation planning. Within this new framework, federal aid for supplementary education centers could logically be added to the programs for which incentive grants will be available.

As a strategy to promote metropolitan cooperation, the supplementary program attempts to reward local governments that take part in substantial metropolitan planning, enter into areawide coordination arrangements, and align their own local development policies with areawide plans. A different approach to areawide cooperation has also been evolving as federal policy, relying on requirements rather than incentives and focusing on specific project proposals rather than overall local development policies. This approach began with Congressional adoption of program-by-program requirements that federal grants for highways, mass transportation, water and sewer facilities, and open space projects in urban areas must be consistent with areawide comprehensive development plans. Title II of the Demonstration Cities and Metropolitan Development Act of 1966 extended this approach by requiring metropolitan review of proposed federal-aid projects under most of the major urban development programs, including those for hospitals, airports, transportation, land conservation, and water and sewer facilities.

The new requirements call for an official metropolitan planning agency to review federal-aid proposals and advise the federal administrators on the extent to which each project is consistent with comprehensive development plans for the area. This review is advisory only and does not constitute veto power over local proposals, but it does promise to strengthen metropolitan planning by linking it to the flow of federal aid for local projects.

Although this evolving structure for metropolitan planning and review has received widespread bipartisan support, it has come under occasional attack from the right for intruding on the privileges of local government and for compelling suburbs and central cities to consult with one another. More recently, it has been the subject of another kind of attack, alleging that the new metropolitan apparatus is a threat to growing Negro strength in the central cities. Frances Fox Piven and Richard Cloward have argued that under these review procedures, "The metro agency will be the control point in an all-embracing bureaucratic system"; that these agencies will be dominated by suburban and inner-city white interests; and that "As blacks rise to power in the city, the city will lose power to the metropolis."[26]

This argument vastly overstates the present and potential power of metropolitan planning agencies. The agencies that exist today in most metropolitan areas have been established solely as advisory groups authorized to prepare studies and plans, offer information and technical advice to local governments, and serve as a regional forum for discussion and consultation. Most councils consist of representatives of local governments in the area, sometimes with additional representatives of the state and at-large members; the councils typically hire a small staff to conduct technical studies and develop plans. They tend to operate by consensus, since they have no power other than the power of persuasion to influence local government decisions.

The planning councils will become more important as they take on review

functions for federal aid programs, but their future evolution can provide opportunities as well as dangers for Negroes in the core cities. Core city residents will want access to suburban job centers, to regional service facilities that will locate in the suburbs, and to suburban housing markets. Metropolitan planning can serve as a forum for bargaining to secure these interests when federal-aid programs are drawn up for transportation, education, public facilities, and housing.

That there will be conflicts of interest over future federal-aid programs is also clear, but it is unlikely that metropolitan planning councils will ever have real control over the flow of federal aid. As long as central cities contain large blocs of voters and generate major demands for federal-aid programs, their wishes will not be ignored in Washington, even when they cannot come to terms with their suburban neighbors on planning councils. As traditional HUD constituents, big-city mayors may well be able to take positions of leadership within metropolitan councils and make use of their bargaining power to influence suburban policies. The dangers that Piven and Cloward suggest seem remote. If the metropolitan councils begin to function as formal centers of policymaking, these dangers can probably be forestalled by timely central-city pressure for voting rules based on population rather than equal votes for all member communities.

In short, there will be a need for some mechanism that will allow negotiation between central cities and suburbs on policies of common interest. Recent federal policies have helped create such a mechanism, which can be useful in serving central city as well as suburban interests. Groups that are concerned with opportunities for desegregation in schools and housing should welcome the development of areawide planning councils which will provide channels for joint action and policymaking. The present councils, however, are still weak and could be pushed in any of several directions including some that would reinforce the fears of Piven and Cloward. Federal influence and local pressure should be brought to bear on the activity of these councils to insure that they broaden

their focus to include programs for equal opportunity in education and housing, and that they give adequate representation to the disadvantaged residents of the core cities.

A Note on Feasibility and Urgency

The proposals in this paper do not suggest radical reorganization of federal urban programs or a federal takeover of local responsibilities. Instead they represent further steps in the evolution of federal policy to deal with critical national problems. Nevertheless it will be argued that these steps are not feasible, that the temper of Congress and the mood of public opinion will not allow more vigorous federal action toward equal opportunity in housing and education at this time. Some will contend that requiring urban planning and development programs to deal with low-income housing and desegregation on a metropolitan basis will lead many suburbs to withdraw from metropolitan planning councils and to stop using federal programs. Those who support a go-slow strategy will maintain that present programs and institutions need time to become established before they can deal with divisive social problems.

As to feasibility, many steps suggested here would not require immediate Congressional action but could be taken by executive and administrative decisions. Those that call for Congressional approval in general follow precedents established in other legislation. Only a few suggestions amount to reversals of prior Congressional action. Although it is possible that some communities will withdraw from federal programs rather than accept new requirements, a much more likely response, where there is resistance, will be to go through the motions of compliance without real commitment. A period of testing new regulations would probably ensue, in which the skill and flexibility of program administrators will have much to do with the outcome.

Concern over whether dealing with divisive issues will shatter fragile urban programs and institutions seems misplaced. Allowing more time for existing planning councils and development programs to mature may well mean solidifying operations that deal with problems of the past, not of the present or future. The problems of racial inequality are pressing. We are running out of time for peaceful solutions. Even the proposals in this paper, which will be controversial, cannot promise early results on a large scale. But they can open new channels to relieve forced segregation, and they can demonstrate that we are determined to build cities and suburbs for equal opportunity.

Notes

1. U. S. Congress, Senate Subcommittee on Executive Reorganization of the Committee on Government Operations, Hearings, Federal Role in Urban Affairs, 89th Cong., 2nd Sess., 1966, Part 1, p. 179.

2. See Advisory Commission on Intergovernmental Relations, Metropolitan Social and Economic Disparities: Implications for Intergovernmental Relations in Central Cities and Suburbs (Washington: Government Printing Office, 1965), pp. 27-29.

3. U. S. Commission on Civil Rights, Racial Isolation in the Public Schools (Washington: Government Printing Office, 1967), pp. 26-28.

4. Ibid., p. 13; U. S. Bureau of the Census, Current Population Reports, Population Characteristics, Series P-20, No. 163, "Population of the United States by Metropolitan and Nonmetropolitan Residence: April 1966 and 1960," March 27, 1967.

5. Ibid.

6. U. S. Commission on Civil Rights, op. cit. and Appendices: Racial Isolation in the Public Schools (Washington: Government Printing Office, 1967).

7. U. S. Executive Office of the President, Executive Order 11063, "Equal Opportunity in Housing," November 20, 1962.

8. U. S. Congress, House, Message from the President of the United States Relative to the Problems and Future of the Central City and its Suburbs, 89th Cong., 1st Sess., Document No. 99, March 2, 1965.

9. U. S. Congress, House, Message from the President of the United States Transmitting Recommendations for City Demonstration Programs, 89th Cong., 2nd Sess., Document No. 368, January 26, 1966.

10. Advisory Commission on Intergovernmental Relations, Tax Overlapping in the United States: 1964 (Washington: Government Printing Office, 1964), p. 36.

11. Ibid., p. 40.

12. U. S. Commission on Civil Rights, Racial Isolation in the Public Schools, pp. 29-30.

13. Advisory Commission on Intergovernmental Relations, The Role of Equalization in Federal Grants (Washington: ACIR, 1964), p. 42.

14. U. S. Department of Housing and Urban Development, Low-Rent Housing Manual, Section 205.1, para. 4(g), p. 7, February 28, 1967.

15. U. S. Housing and Home Finance Agency, Workable Program for Community Improvement (Washington: HHFA, February 1962), p. 39.

16. Ibid.

17. U. S. Department of Housing and Urban Development, Local Public Agency Letter No. 276, Supplement No. 1, July 5, 1967.

18. U. S. Department of Housing and Urban Development, "Water and Sewer Facilities Planning Requirements Guide," January 31, 1966, p. 4.

19. Ibid., p. 1.

20. U. S. Department of Health, Education, and Welfare, "Title III Elementary and Secondary Education Act of 1965: A Manual for Project Applicants and Grantees," May, 1967, p. 3.

21. "U. S. Told Suburbs Must Help Cities," New York Times, June 16, 1966, p. 1.

22. See, for example, "The Right to Equal Treatment: Administrative Enforcement of Antidiscrimination Legislation," Harvard Law Review, LXXIV (January, 1961), 526-589.

23. Richard and Diane Margolis, How the Federal Government Builds Ghettos (New York: National Committee Against Discrimination in Housing, 1967), p. 27.

24. Ibid., pp. 9-10, 28-29.

25. Bernard J. Frieden, Metropolitan America: Challenge to Federalism (Washington: Advisory Commission on Intergovernmental Relations, 1966), pp. 61-63.

26. Frances Fox Piven and Richard A. Cloward, "Black Control of Cities: Heading It Off by Metropolitan Government," The New Republic, September 30, 1967, pp. 19-21; and "Black Control of Cities - II: How the Negroes Will Lose," The New Republic, October 7, 1967, pp. 15-19.